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2009CV02150

MARCIA BOSTON VS ALCO INDUSTRIES INC

Type Of : OTHER CIVIL MISCELLANEOUS  
Action : CIVIL  
Judge : FORCHIONE, FRANK G.  
Case Status : open  
Filed On: 06/01/2009

**PARTIES**

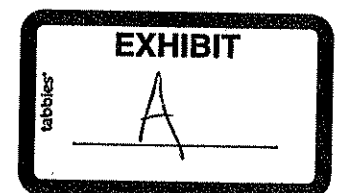
Name	Type
ALCO INDUSTRIES INC,	DEFENDANT
BOSTON, MARCIA	PLAINTIFF
US CHEMICAL AND PLASTICS INC,	DEFENDANT

**DOCKET ENTRIES**

06-01-2009	COMPLAINT FILED INSTRUCTIONS FOR SERVICE FILED. SUMMONS AND COPIES OF COMPLAINT SENT TO ALCO INDUSTRIES INC DBA US CHEMICAL AND PLASTICS INC C/O STATUTORY AGENT CSC LAWYERS BY CERTIFIED MAIL (###432152009CV02150000!!!);	\$2.00
06-01-2009	DESIGNATION FORM FILED	\$ .00
06-01-2009	JURY DEMAND - PLAINTIFF	
06-01-2009	DEPOSIT RECEIVED FROM JAMES COLLUM RECEIPT NO. CV220417 IN THE AMOUNT OF \$200.00	\$200.00
06-01-2009	DEPOSIT RECEIVED FROM JAMES COLLUM RECEIPT NO. CV220414 IN THE AMOUNT OF \$250.00	\$250.00
06-09-2009	SERVICE COMPLETE FOR SERVICE ISSUED 06-01-2009 CERTIFIED MAIL TO ALCO INDUSTRIES INC DBA US CHEMICAL AND PLASTICS INC C/O STATUTORY AGENT CSC LAWYERS INCORPORATING SERVICE 50 WEST BROAD STREET SUITE 1800 COLUMBUS OH 43215 ON 06-04-2009	

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IN THE COURT OF COMMON PLEAS, STARK COUNTY, OHIO  
**NANCY S. REINBOLD**  
**STARK COUNTY CLERK OF COURTS**

**MARCIA BOSTON**

PLAINTIFF,

VS.

CASE NUMBER : **2009CV02150**

**ALCO INDUSTRIES INC DBA US  
CHEMICAL AND PLASTICS INC ,ET AL**

ASSIGNED JUDGE : **FRANK G. FORCHIONE**

DEFENDANT,

**SUMMONS**

June 2, 2009

TO THE FOLLOWING NAMED DEFENDANT:

ALCO INDUSTRIES INC DBA US CHEMICAL  
AND PLASTICS INC C/O STATUTORY AGENT  
CSC LAWYERS  
INCORPORATING SERVICE  
50 WEST BROAD STREET SUITE 1800  
COLUMBUS, OH 43215

YOU HAVE BEEN NAMED A DEFENDANT IN A COMPLAINT FILED IN STARK COUNTY COURT OF COMMON  
PLEAS, STARK COUNTY COURT HOUSE, CANTON, OHIO 44702 BY:

MARCIA BOSTON -  
6000 BETH AVENUE SW  
LOT 57  
CANTON, OH 44706

PLAINTIFF.

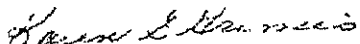
A COPY OF THE COMPLAINT IS ATTACHED HERETO. THE NAME AND ADDRESS OF THE PLAINTIFF'S  
ATTORNEY IS:

JAMES COLLUM  
4571 STEPHEN CIRCLE NW  
SUITE 130  
CANTON, OH 44718

YOU ARE HEREBY SUMMONED AND REQUIRED TO SERVE UPON THE PLAINTIFF'S ATTORNEY, OR UPON THE  
PLAINTIFF, IF HE HAS NO ATTORNEY OF RECORD, A COPY OF AN ANSWER TO THE COMPLAINT WITHIN  
TWENTY-EGHT DAYS AFTER THE SERVICE OF THIS SUMMONS ON YOU, EXCLUSIVE OF THE DAY OF SERVICE.  
YOUR ANSWER MUST BE FILED WITH THE COURT WITHIN THREE DAYS AFTER THE SERVICE OF A COPY OF  
THE ANSWER ON THE PLAINTIFF'S ATTORNEY.

IF YOU FAIL TO APPEAR AND DEFEND, JUDGMENT BY DEFAULT WILL BE RENDERED AGAINST YOU FOR THE  
RELIEF DEMANDED IN THE COMPLAINT.

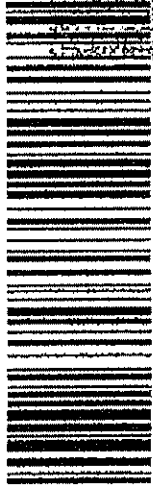
NANCY S. REINBOLD  
CLERK OF COURTS  
STARK COUNTY, OHIO



K. GRIMES, DEPUTY CLERK

**NANCY S. REINBOLD**  
Stark County Clerk of Courts  
LEGAL DIVISION  
P.O. Box 21160  
Canton Ohio 44701-1160

CERTIFIED MAIL



91 7108 2133 3936 2324



\$ 04.51<sup>0</sup>

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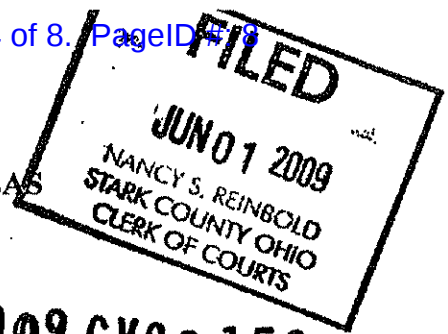
MAILED FROM ZIP CODE 44702

2009CV02150 FF  
ALCO INDUSTRIES INC DBA US CHEMICAL AND PLASTICS  
INC C/O STATUTORY AGENT CSC LAWYERS  
INCORPORATING SERVICE  
50 WEST BROAD STREET SUITE 1800  
COLUMBUS, OH 43215



432152009CV02150000





IN THE COURT OF COMMON PLEAS  
STARK COUNTY, OHIO

MARCIA BOSTON  
6000 BETH AVENUE SW  
LOT #57  
CANTON, OH 44706,

Plaintiff,

-vs-

ALCO INDUSTRIES, INC.  
d/b/a US Chemical & Plastics, Inc.  
c/o Statutory Agent, CSC Lawyers  
Incorporating Service  
50 WEST BROAD STREET  
SUITE 1800  
COLUMBUS, OH 43215,

Defendant.

CASE NO.: ~~2009~~ CV02-150

JUDGE Forchione

COMPLAINT

(Disability Discrimination, FMLA)

(Jury Demand Endorsed Hereon)

**PARTIES AND JURISDICTION**

1. The Plaintiff, Marcia Boston (hereinafter "Plaintiff"), is a resident of Stark County and subject to the jurisdiction of this Court.
2. The Defendant, Alco Industries, Inc. (hereinafter "Defendant"), is a Delaware corporation for profit and operates under the registered trade name "US Chemical & Plastics, Inc. at 600 Nova Drive SE, Massillon, 44646 in Stark County, Ohio.
3. This court has jurisdiction and venue over this action pursuant to the Ohio Rules of Civil Procedure under Civil Rules 3(B)(3), (6), and other applicable portions of the Ohio Rules of Civil Procedure.

JAMES J. COLLUM

ATTORNEY AT LAW

4571 STEPHEN CIRCLE, N.W.

SUITE 130

CANTON, OHIO 44718-3629

**BACKGROUND INFORMATION**

4. Plaintiff, Marcia Boston, incorporates by reference herein the allegations contained in paragraphs 1 through 3, inclusive herein above.
5. The Plaintiff was employed with the Defendant as a "filler/packer" from December 28, 2000 through March 30, 2009, which was the date of her termination.
6. During the Plaintiff's employment with the Defendant, namely in March of 2009, she was entitled to FMLA leave and the Defendant failed to properly instruct the Plaintiff as to her right to FMLA leave, and instead, terminated the Plaintiff's employment.
7. At the time of the Plaintiff's termination, the Defendant was aware that the alleged "tardiness" and "days off" of the Plaintiff were for a medical condition that would qualify for FMLA leave, and the Defendant likewise knew that the Plaintiff was eligible for FMLA leave. Despite this, the Defendant took no steps to advise the Plaintiff of her FMLA rights.
8. The Plaintiff has had numerous chronic health conditions which have continually occurred over the years she has been employed with the Defendant including, but not limited to, stomach ulcers which required reconstruction of her stomach, poor immune system, poor eyesight, kidney problems which recently resulted in 6-8 kidney stones.
9. Supervisory employees took adverse action against the Plaintiff due to her disabilities, including, but not limited to, her termination of employment from the Defendant.
10. The reason for the Plaintiff's termination was mere pretext for discrimination, and such termination was done predominantly because of Plaintiff's qualifying disabilities.
11. The Human Resources Department for the Defendant was aware that the Plaintiff was eligible for FMLA and was also aware of the Plaintiff's disabilities, yet made the

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ATTORNEY AT LAW

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decision to terminate the Plaintiff despite these facts and because of Plaintiff's disabilities.

12. As a result of the allegations set forth in this Complaint, the Plaintiff has been damaged and continues to be damaged as she is currently unemployed.

**COUNT I. DISABILITY DISCRIMINATION O.R.C. §4112.01, et seq.**

13. Plaintiff, Marcia Boston, incorporates by reference herein the allegations contained in paragraphs 1 through 12, inclusive herein above.
14. Plaintiff was subjected to adverse employment action based on her disability, namely adverse write-ups and termination, and this is evidence of disability discrimination.
15. Plaintiff was legally disabled at all relevant times set forth in this Complaint and the Defendant's acts were intentional or reckless whereby proximately causing the Plaintiff injury.
16. The Plaintiff has had numerous chronic health conditions which have continually occurred over the years employed with the Defendant including, but not limited to, stomach ulcers which required reconstruction of her stomach, poor immune system, poor eyesight, kidney problems which recently resulted in 6-8 kidney stones.
17. Under the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) which became effective January 1, 2009, the Defendant's actions constitute disability discrimination.
18. Plaintiff is entitled to damages under O.R.C. §4112.01, *et seq.*, including, but not limited to, damages set forth in O.R.C. §4112.99.

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19. As a direct result of the conduct by Defendant, the Plaintiff has been injured and suffered damages in an amount exceeding Twenty-Five Thousand Dollars and 00/100 (\$25,000.00).

**COUNT II. FAMILY & MEDICAL LEAVE ACT (FMLA)**

20. Plaintiff, Marcia Boston, incorporates by reference herein the allegations contained in paragraphs 1 through 19, inclusive herein above.

21. The Plaintiff was eligible for FMLA leave at the time of her termination of employment from the Defendant.

22. The Defendant failed to counsel the Plaintiff and advise her of her rights under the FMLA, despite the fact that the Defendant was aware of the Plaintiff's medical condition/disability at the time of her termination of employment on or about March 30, 2009.

23. Defendant's actions are a violation of the Family & Medical Leave Act (FMLA) and have caused the Plaintiff damage.

24. As a direct result of the conduct by Defendant, the Plaintiff has been injured and suffered damages in an amount including her back pay, benefit loss, and all other costs included in her medical care which may be recoverable under the FMLA.

**WHEREFORE**, Plaintiff, Marcia Boston, requests the following relief against the Defendants:

1. *Compensatory Damages* on Count 1 and 2 of this Complaint in an amount exceeding Twenty-Five Thousand Dollars and 00/100 (\$25,000.00);

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ATTORNEY AT LAW

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2. *Punitive Damages* on Count 1 of this Complaint in an amount exceeding Twenty-Five Thousand Dollars and 00/100 (\$25,000.00);
3. *Attorney Fees, interest and costs* in an amount to be determined by the Court;
4. Any relief which may be awarded under the FMLA; and
5. Any other relief which this honorable Court deems to be fair and just.

Respectfully Submitted,

By: \_\_\_\_\_

James J. Collum (#0070985)  
4571 Stephen Circle NW, Suite #130  
Canton, OH 44718  
Phone: (330) 494-4877  
Fax: (330) 433-1313

Attorney for the Plaintiff

**JURY DEMAND**

Plaintiff, Marcia Boston, hereby demands a trial by jury as to Count 1 and 2 of this Complaint.

\_\_\_\_\_  
James J. Collum (#0070985)

Attorney for the Plaintiff

**PRAECIPE FOR SERVICE**

TO THE CLERK:

Please serve summons and a copy of the foregoing Complaint upon the named Defendant at the address listed in the caption hereof by Certified U.S. Mail, return receipt requested.

\_\_\_\_\_  
James J. Collum (#0070985)

Attorney for the Plaintiff

C:29-938.complaint.5.26.09

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